

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THOMAS RICHEY,

CASE NO. C12-0660JLR

Plaintiff,

ORDER

V.

LISA SYKES, et al.,

Defendants.

I. INTRODUCTION

This matter comes before the court on the Report and Recommendation of United States Magistrate Judge Mary Alice Theiler (R&R (Dkt. # 23)), and Plaintiff Thomas Richey's objections thereto (Objection (Dkt. # 24)). Having carefully reviewed the foregoing, the remainder of the record, and the governing law, the court ADOPTS the Report and Recommendation (Dkt. # 23) and DISMISSES Mr. Richey's complaint with prejudice.

I. BACKGROUND

2 Mr. Richey is a state prisoner who is presently incarcerated at the Clallam Bay
3 Corrections Center (“CBCC”) in Clallam Bay, Washington. Mr. Richey brought a civil
4 rights action under 42 U.S.C. § 1983 alleging that his First Amendment rights were
5 violated when mail he attempted to send out of the institution was rejected and
6 confiscated. The parties brought cross motions for summary judgment with respect to
7 Mr. Richey’s First Amendment claims. (*See* Dkt. ## 13, 19.)

8 Magistrate Judge Theiler recommended denying Mr. Richey's motion for
9 summary judgment, granting Defendants' motion for summary judgment, and dismissing
10 Mr. Richey's complaint with prejudice. (R&R at 11.) Mr. Richey filed a timely
11 objection to the Magistrate Judge Theiler's report and recommendation. (*See generally*
12 **Objection.**)

II. STANDARD OF REVIEW

14 A district court has jurisdiction to review a Magistrate Judge's report and
15 recommendation on dispositive matters. Fed. R. Civ. P. 72(b)(3). "The district judge
16 must determine de novo any part of the magistrate judge's disposition that has been
17 properly objected to." *Id.* "A judge of the court may accept, reject, or modify, in whole
18 or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C.
19 § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3) (The district judge may accept, reject,
20 modify the recommended disposition; receive further evidence; or return the matter to the
21 magistrate judge with instructions."). "The statute makes it clear that the district judge
22 must review the magistrate judge's findings and recommendations de novo if objection is

1 made, but not otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.
2 2003) (en banc). Because Mr. Richey is proceeding *pro se*, this court must interpret his
3 complaint and objections liberally. *See Bernhardt v. Los Angeles Cnty.*, 339 F.3d 920,
4 925 (9th Cir. 2003).

5 **III. DISCUSSION**

6 Mr. Richey objects to Magistrate Judge Theiler’s Report and Recommendation by
7 asserting that she applied the wrong standard of scrutiny under Supreme Court precedents
8 applicable to First Amendment challenges to outgoing prisoner mail. (Objections at 1-3.)
9 Mr. Richey’s objection to the Report and Recommendation does not raise any issue that
10 was not correctly addressed by Magistrate Judge Theiler. (See R&R at 5-11 (articulating
11 and applying the correct standard for evaluating a First Amendment challenge to prison
12 regulations censoring prisoner mail).) Moreover, the court has thoroughly examined the
13 record before it and finds Magistrate Judge Theiler’s reasoning persuasive in light of that
14 record. Mr. Richey essentially reargues the contentions made to Magistrate Judge
15 Theiler, and the court independently rejects them for the same reasons articulated in the
16 Report and Recommendation. (See generally R&R.)

17 **IV. CONCLUSION**

18 For the foregoing reasons, the court hereby ORDERS as follows:

19 (1) The court ADOPTS the Report and Recommendation (Dkt. # 23) in its
20 entirety;
21 (2) The court DENIES Mr. Richey’s motion for summary judgment (Dkt. # 13)
22 and GRANTS Defendants’ cross motion for summary judgment (Dkt. # 19);

- (3) The court DISMISSES Mr. Richey's complaint (Dkt. # 3) with prejudice; and
- (4) The court DIRECTS the Clerk to send copies of this Order to Mr. Ruchey, to counsel for respondent, and to Magistrate Judge Theiler.

Dated this 18th day of March, 2013.



Jim R. Blit

JAMES L. ROBART
United States District Judge